

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF  MARTIN PHILLIP LUND,  Respondent.	Case No. INS-2021-466  <b>FINAL AGENCY ACTION AND DEFAULT ORDER</b>
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One December 23, 2021, Legal Counsel for the Montana Department of Insurance (hereinafter “the Department”) served a Notice of Proposed Agency Action (hereinafter “NOPAA”) on Martin Phillip Lund (hereinafter “Respondent”) by Certified Mail, which was delivered to Respondent on December 28, 2021. A copy of the U.S. Postal Service receipt and delivery tracking confirmation is attached to this Order and marked as Exhibit A. A copy of the NOPAA is attached to this Order and marked as Exhibit B. The NOPAA provided Respondent an opportunity for an administrative hearing to contest the Department’s proposed action if requested within 24 days of her receipt of the NOPAA, making the deadline for Respondent to request an administrative hearing no later than January 21, 2022.

Respondent has failed to request an administrative hearing. The Commissioner of Insurance (hereinafter “Commissioner”) considered the allegations, evidence and exhibits and makes the following determinations:

**FINDINGS OF FACT**

1. On or about 4:30 p.m. on December 24, 2020, Respondent’s then roommate, Sean Lawrence King (hereinafter “King”), backed King’s 2005 GMC Envoy (hereinafter “SUV”) into Respondent’s 2015 Honda Civic (hereinafter “Civic”), causing damage to both the SUV and the Civic.

2. At the time of the aforementioned collision, King did not have any automobile liability insurance policy (hereinafter “policy”) in effect for his SUV.

3. On or about 5:42 p.m. on December 24, 2020, King made an online purchase of a new policy from Progressive Direct Insurance Company (hereinafter “Progressive”) for coverage on his SUV.

4. On or about 8:44 a.m. on December 25, 2020, King used a mobile phone app to report the aforementioned collision to Progressive. In that report and again in a recorded statement with Progressive on or about 9:31 a.m. on December 26, 2020, King claimed that he backed into Respondent’s Civic around 7:30 a.m. on December 25, 2020.

5. On or about 9:46 a.m. on December 26, 2020, in a recorded statement with Progressive, Respondent also claimed that King backed into Respondent’s Civic around 7:30 a.m. on December 25, 2020, and he went on to report that he had also filed a claim with his own insurance company.

6. On or about 12:32 p.m. on December 29, 2020, in a second recorded statement with Progressive, Respondent maintained his claim that King backed into Respondent’s Civic around 7:30 a.m. on December 25, 2020.

7. On or about December 30, 2020, in a second recorded statement with Progressive, King confessed that he had lied before – the collision occurred about an hour before he purchased the Progressive policy. King admitted that he convinced Respondent to tell the same lie, but now King wants to withdraw the claim.

8. On or about December 31, 2020, a repair estimate for the damages to Respondent’s Civic was performed, and the repair cost was estimated to be \$1,047.90.

9. On or about December 8, 2021, in a recorded statement with Department investigators, Respondent admitted that King asked him to lie to Progressive about the date of the collision.

### **CONCLUSIONS OF LAW**

10. The Commissioner has jurisdiction over the Respondent and the alleged violations pursuant to Mont. Code Ann. § 33-1-101 *et seq.*

11. The Commissioner administers the Montana Insurance Code to protect insurance consumers pursuant to Mont. Code Ann. § 33-1-311.

12. A person commits the act of administrative or civil insurance fraud when the person . . . for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer . . . any written or oral statement . . . containing false, incomplete or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy. Mont. Code Ann. § 33-1-1202.

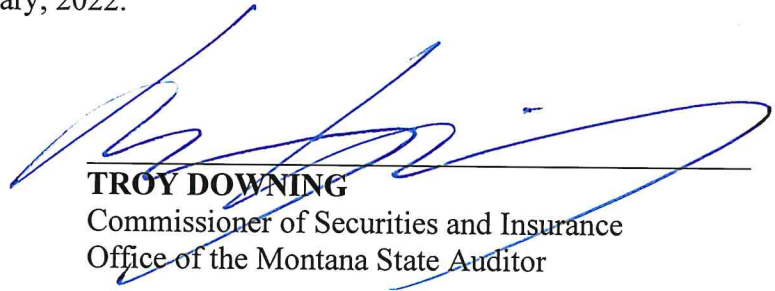
13. Upon a determination that a person has violated the Montana Insurance Code, the Commissioner has authority to fine such person up to \$25,000 per violation pursuant to Mont. Code Ann. § 33-1-317.

### **ORDER**

THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED that Respondent shall pay a fine of \$1,000 to the State of Montana within 30 days of the date of this Order. Payment must be made by check or money order payable to “The State of Montana” and mailed/delivered to:

Commissioner of Securities and Insurance  
Office of the Montana State Auditor  
Attn: Tiffany Hoffman, Paralegal  
840 Helena Avenue  
Helena, MT 59601

DATED this 26<sup>th</sup> day of January, 2022.



**TROY DOWNING**  
Commissioner of Securities and Insurance  
Office of the Montana State Auditor

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**Martin Phillip Lund**  
**1440 Stoddard Street**  
**Unit C**  
**Missoula MT 59802**

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**RICHARD E. WOOTTON**  
Legal Counsel  
Commissioner of Securities and Insurance,  
Office of the Montana State Auditor  
840 Helena Avenue  
Helena, MT 59601  
Phone: (406) 444-5234  
Fax: (406) 444-3499  
Email: Richard.Wootton@mt.gov

*Attorney for the Montana Department of Insurance*

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
OFFICE OF THE MONTANA STATE AUDITOR**

IN THE MATTER OF  MARTIN PHILLIP LUND,  Respondent.	Case No. INS-2021-466  <b>NOTICE OF PROPOSED AGENCY ACTION AND OPPORTUNITY FOR HEARING</b>
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TO: Martin Phillip Lund  
1440 Stoddard Street  
Unit C  
Missoula, MT 59802



The Montana Department of Insurance (hereinafter “the Department”) has cause to believe that Martin Phillip Lund (hereinafter “Respondent”) has violated the Montana Insurance Code, as set forth below. The Department proposes that the Montana State Auditor, in his ex officio capacity as Commissioner of Insurance (hereinafter “Commissioner”), levy a \$1,000.00 fine against Respondent. The Commissioner has the authority to undertake this action pursuant to the Montana Insurance Code, § 33-1-101 *et seq.*

Respondent’s acceptance of the proposed penalty will resolve this matter and it will be deemed a Final Agency Action based on the facts alleged and applicable law set out below. If Respondent chooses not to accept the penalty, Respondent may demand an administrative hearing;

that demand must be in writing and must be received by the Commissioner within 24 days of the date of this Notice, as described in the Statement of Rights below.

### **FACTUAL ALLEGATIONS**

1. On or about 4:30 p.m. on December 24, 2020, Respondent's then roommate, Sean Lawrence King (hereinafter "King"), backed King's 2005 GMC Envoy (hereinafter "SUV") into Respondent's 2015 Honda Civic (hereinafter "Civic"), causing damage to both the SUV and the Civic.
2. At the time of the aforementioned collision, King did not have any automobile liability insurance policy (hereinafter "policy") in effect for his SUV.
3. On or about 5:42 p.m. on December 24, 2020, King made an online purchase of a new policy from Progressive Direct Insurance Company (hereinafter "Progressive") for coverage on his SUV.
4. On or about 8:44 a.m. on December 25, 2020, King used a mobile phone app to report the aforementioned collision to Progressive. In that report and again in a recorded statement with Progressive on or about 9:31 a.m. on December 26, 2020, King claimed that he backed into Respondent's Civic around 7:30 a.m. on December 25, 2020.
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8. On or about December 31, 2020, a repair estimate for the damages to Respondent's Civic was performed, and the repair cost was estimated to be \$1,047.90.

9. On or about December 8, 2021, in a recorded statement with Department investigators, Respondent admitted that King asked him to lie to Progressive about the date of the collision.

#### **APPLICABLE LAW**

10. The Commissioner has jurisdiction over the Respondent and the alleged violations pursuant to Mont. Code Ann. § 33-1-101 *et seq.*

11. The Commissioner administers the Montana Insurance Code to protect insurance consumers pursuant to Mont. Code Ann. § 33-1-311.

12. A person commits the act of administrative or civil insurance fraud when the person . . . for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer . . . any written or oral statement . . . containing false, incomplete or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy. Mont. Code Ann. § 33-1-1202.

13. Upon a determination that a person has violated the Montana Insurance Code, the Commissioner has authority to fine such person up to \$25,000 per violation pursuant to Mont. Code Ann. § 33-1-317.



### **PROPOSED AGENCY ACTION**

WHEREFORE, the Department proposes that the Commissioner impose a fine of \$1,000 against Respondent.

### **STATEMENT OF RIGHTS**

Respondent is entitled to contest the Department's proposed action by requesting an administrative hearing. To do so, within 24 days of receipt of this Notice of Proposed Agency Action and Opportunity for Hearing, a request for a hearing must be submitted in writing to Richard E. Wootton, 840 Helena Avenue, Helena, MT 59601 or via email to Richard.Wootton@mt.gov. Any request for a hearing must specify the Respondent's grounds relied upon as a basis for the relief sought in the hearing. A request for a hearing may also include the Respondent's response(s) to the factual allegations set forth above. If a hearing is requested, the Respondent will be given notice of the time, place, and nature of the hearing. The Respondent will be entitled to attend this hearing and respond and present evidence and arguments on all issues involved in this action.

Administrative hearings are conducted by an impartial hearing examiner appointed by the Commissioner under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to Mont. Code Ann. § 2-4-603. Respondent has the right to be represented by an attorney at any and all stages of this proceeding.

### **CONTACT WITH COMMISSIONER'S OFFICE**

Please contact Richard E. Wootton, Legal Counsel for Department, at 406-444-5234 or at Richard.Wootton@mt.gov with any questions regarding this action. If an attorney represents the Respondent, please make any contact with the Department through that attorney.

### **POSSIBILITY OF DEFAULT**

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the Department's proposed action, without additional notice to Respondent, pursuant to Admin. Rule Mont. 1.3.214.

DATED this 23<sup>rd</sup> day of December, 2021.

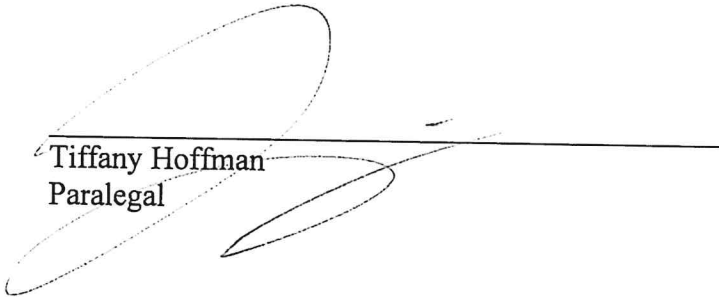


Richard E. Wootton, Legal Counsel

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 23<sup>rd</sup> day of December, 2021, a true and correct copy of the foregoing Notice of Proposed Agency Action and Opportunity for Hearing was served upon the following by Certified U. S. Mail:

Martin Phillip Lund  
1440 Stoddard Street  
Unit C  
Missoula, MT 59802



Tiffany Hoffman  
Paralegal